

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JASON SHEPPARD,)
)
Petitioner,)) Civ. No. 14-1305
vs.)) Crim. No. 10-119
)
UNITED STATES OF AMERICA.))

MEMORANDUM OPINION AND ORDER

Pending before the Court is Petitioner Jason Sheppard's Second Motion under 28 U.S.C. § 2255 To Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody [ECF #92]. In this Motion, Petitioner is arguing "all grounds listed in CV-13-1667 [his first § 2255 Motion which currently is on appeal] plus new evidence of a real conflict of interest where my counsel represented the Government's leading witness on a DUI charge and counseled her to testify against me in exchange for dropping said DUI." Motion, p. 4.

This motion is a second or successive § 2255 petition. The Court does not have jurisdiction over such a motion without prior Third Circuit approval. 28 U.S.C. § 2255(h). Such approval has not been given in this case. Therefore, Mr. Sheppard's motion will be denied.

In addition, because jurists of reason would not debate this procedural ruling, a certificate of appealability will not issue. See, e.g., Walker v. Frank, 56 F. App'x 577, 579 (3d Cir. 2003).

Petitioner is advised that he has the right to appeal this Order denying his Motion, see 28 U.S.C. § 2253(a), and that our denial of a certificate of appealability does not prevent him from doing so, as long as he also seeks a certificate of appealability from the court of appeals. See Federal Rule of Appellate Procedure 2.

ORDER

AND NOW, this 30th day of September, 2014, it is HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner's Second Motion under 28 U.S.C. § 2255 To Vacate, Set Aside, ² or Correct Sentence By a Person in Federal Custody [ECF#91] is DENIED.

It is further hereby ORDERED, ADJUDGED AND DECREED that the Clerk of Court shall mark the civil action, Civ. No. 14-1305, CLOSED.

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
Senior District Court Judge

cc: Jason Sheppard
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